

GOVERNMENT OF ANDHRA PRADESH  
A B S T R A C T

Cooperation Department – Sri S.Yaqoob Hussain, Assistant Registrar – Seniority quota –Roster – Promotees vis-à-vis – General category promotees – Appeal filed promotion as Deputy Registrar on par with junior under catch-up Rule – Appeal disposed – Modified orders – Issued.

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AGRICULTURE AND COOPERATION (COOP-II) DEPARTMENT

G.O.Rt.No. 462

Dated: 17-4-2009.  
Read the following:-

1. Progs. of CC&RCS, A.P. Hyd in Rc.No.11491/06/G1, dt. 8-8-2006.
2. Appeal of Sri S.Yaqoob Hussain, Asst.Registrar, dt. 29-6-2006 and 12-9-2006.
3. G.O.Rt.No.511, A&C(Coop-II) Dept., dt. 1-5-2008.
4. From the CC&RCS, Lr.Rc.No.19717/2006/G1, dt.3-7-2008.

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In the reference 3<sup>rd</sup> above, the Govt., while disposing off the appeal Sri S.Yaqoob Hussain, Assistant Registrar for promotion in the cadre of Dy.Registrar of Cooperative Societies on par with Sri K.Chinna James, in the panel as on 1-9-2001, in accordance with the 'catch-up rule' laid down by the Hon'ble Supreme Court of India in Ajith Singh(II) case vs. Govt., of Punjab, have directed the Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad to take further action to consider the request of the individual for promotion as Dy.Registrar keeping in view of the relevant rules.

2. The Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad in the reference 2<sup>nd</sup> cited has stated that the main contention of the Govt., in allowing the appeal of Sri S. Yaqoob Hussain, Asst.Registrar in question is that the orders of Govt., issued vide G.O.Ms.No.5, Social Welfare(ROR) Dept., dt. 14-2-2003 and G.O.Ms.No.2, Social Welfare Dept., dt. 9-1-2004 pursuant to amendment to Article 16(4)(a) will come into force with effect from 14-2-2003 and shall have prospective effect, where as the applicants claim pertains from the panel year 2001 to 2002 i.e., as on 1-9-2001 and therefore the catch-up rule laid down by the Supreme Court of India in Ajith Singh's case should be applied in Sri S. Yaqoob Hussain's case. He has also submitted that Article 16(4A) of the Constitution was amended through 85<sup>th</sup> Amendment, and the words "in matters of promotion to any class are substituted with the words "in matters of promotion with consequential seniority to any class", and the amendment came into force w.e.f. 17-6-1995. He has also stated that the orders issued in G.O.Ms.No.5, SW(ROR) Dept., dt. 14-2-2003 are regarding implementation of Rule of Reservation in respect of categories where there was no such provision earlier, where as the Rule of Reservation in promotions in Cooperation Department is already being implemented up to the categories of Asst.Registrars (erstwhile Coop.Sub.Registrars) since long back. As the intention of the Govt., of India in amending Article 16(4A) through 85<sup>th</sup> amendment is to protect interests of the Govt., servants belonging to SC and ST by providing consequential seniority with retrospective effect i.e., from 17-6-1995 the catch-up rule laid down by the Supreme Court of India in Ajith Singh's case in its judgment dt. 16-9-1999 cannot be made applicable in the case of the individual i., Sri S.Yaqoob Hussain, Asst.Registrar.

3. Govt., have carefully examined the matter in the light of the above position stated by the CC&RCS and observes that the orders issued for implementation of Rule of Reservation in promotions in favour of S.C/STs employees vide G.O.Ms.No.5, Social Welfare(ROR-I) Dept., dt. 14-2-2003 to all categories with prospective effect as there was no such provision to the said categories of employees. But the Rule of Reservation in promotions in respect of S.C/S.T employees for certain categories in Cooperation Department is already being implemented before the issue of the above orders which is in accordance with Article 16(4A) of the Constitution of India. Govt., further observes that the Rule 4 of A.P. Cooperative Subordinate Service Rules, 1989 (issued in G.O.Ms.No.266, F&A(Coop-II) Dept., dt. 18-4-1990) had provided reservations in promotion up to the category of Co-operative Sub-Registrars (presently Assistant Registrars) viz., Junior Inspectors, Senior Inspectors and Cooperative Sub-Registrars. Thus, implementation of rule of reservation in promotions in favour of SC/ST employees for the above Categories in Cooperation Dept., which is in accordance with Article 16(4A) of the Constitution of India, and the orders issued in G.O.Ms.No.5, SW(ROR) Dept., dt. 14-2-2003 which are subsequent to the above

(p.t.o)

Special Rules are not relevant to the above categories of Cooperation Department. Govt., also observes that the Article 16(4A) of the Constitution of India was amended through 85<sup>th</sup> Amendment dt. 4-1-2002, in which the words "in matters of promotion to any class" are substituted with the words "in matters of promotion with consequential seniority to any class", and the amendment came into force with retrospective effect i.e., w.e.f. . 17-6-1995 i.e., with retrospective effect. Thus the consequential seniority of so promoted S.Cs and S.Ts employees of the above categories of employees of Cooperation by implementing Rule of Reservation in promotions has been protected w.e.f. 17-6-1995. Hence, the ruling of Hon'ble Supreme Court of India in the case of Ajith Singh(II) and others V.s State of Punjab dt. 16-9-1999 on catch-up rule, which is prior to 85<sup>th</sup> Constitutional Amendment dt. 4-1-2002, came into force with retrospective effect w.e.f. 17-6-1995, cannot be made applicable in the case of Sri S.Yaqoob Hussain, Asst.Registrar for promotion as Dy. Registrar of Cooperative Societies, on par with Sri K.Chinna James, who was promoted as D.R. on 1-3-2002 in the panel as on 1-9-2001 as the consequential seniority of the individual in the category of Asst.Registrar was protected w.e.f. 17-6-1995 as per 85<sup>th</sup> Constitutional Amendment.

4. The Commissioner for Cooperation and Registrar of Cooperative Societies, A.P. Hyderabad, is clarified accordingly, and the appeal petition disposed earlier in the reference 4<sup>th</sup> read above stand modified to the above effect.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PANKAJ DWIVEDI  
PRINCIPAL SECRETARY TO GOVT.

To  
The Commissioner for Cooperation and Registrar of Cooperative Societies,  
AP, Hyderabad.  
The individual through the CC&RCS, A.P. Hyd.  
SC/SC

// FORWARDED :: BY ORDER//

SECTION OFFICER